

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAKEEM EL BEY,

Defendant.

No. 14-CR-00447

Chicago, Illinois

March 22, 2018

11:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS - HEARING

*** SEALED PORTION ***

BEFORE THE HONORABLE JUDGE EDMOND E. CHANG

APPEARANCES:

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UNITED STATES ATTORNEY'S OFFICE

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11:00:00 1 THE COURTROOM DEPUTY: 14 CR 447, USA versus Hakeem
11:00:04 2 El Bey.

11:00:04 3 MS. MALIZIA: Good morning. Kathryn Malizia and
11:00:10 4 Christopher Hotaling for the United States.

11:00:13 5 MR. HOTALING: Good morning, Your Honor.

11:00:14 6 DEFENDANT BEY: Good morning, Your Honor.

11:00:16 7 MR. FUENTES: Good morning, Judge, Gabe Fuentes,
11:00:18 8 standby counsel.

11:00:19 9 THE COURT: And Mr. Bey, can you go ahead and state
11:00:21 10 your name.

11:00:22 11 DEFENDANT BEY: My name is Bey, comma, Hakeem El,
11:00:28 12 doing business as Hakeem El Bey.

11:00:33 13 THE COURT: I will just note for the record that this
11:00:35 14 appears to be the same Mr. Bey that I have been addressing
11:00:38 15 since the case was reassigned to me.

11:00:40 16 Good morning.

11:00:41 17 DEFENDANT BEY: Good morning.

11:00:42 18 THE COURT: There are a couple things up.

11:00:44 19 First, the government filed a motion to seal a set of
11:00:48 20 documents that I believe Mr. Bey had left with the government
11:00:57 21 as his proposed exhibits.

11:00:59 22 Do you remember doing that, Mr. Bey?

11:01:01 23 DEFENDANT BEY: Yes, sir.

11:01:02 24 THE COURT: And I think what the government's concern
11:01:04 25 is is that your -- some of your personal identifying

11:01:08 1 information, like Social Security number, is --

11:01:11 2 DEFENDANT BEY: I didn't put my Social Security
11:01:13 3 number on there, Judge.

11:01:14 4 THE COURT: Really the only question, I think, that I
11:01:17 5 need to ask is, do you want any of those exhibits to be placed
11:01:22 6 under seal just in case it has some of your personal
11:01:32 7 identifiers or are you okay with those documents being filed
11:01:35 8 on the public record?

11:01:36 9 DEFENDANT BEY: Okay, I will ask you a question
11:01:39 10 first, Judge, and this is very important.

11:01:41 11 Is this an equity court?

11:01:44 12 THE COURT: I'm sorry?

11:01:44 13 DEFENDANT BEY: Is this an equity court?

11:01:47 14 THE COURT: This is a Federal Court.

11:01:48 15 DEFENDANT BEY: But I mean, is this an equity court?

11:01:52 16 THE COURT: That is not a term that is in Title 28,
11:01:55 17 which created the Federal Court system.

11:02:01 18 DEFENDANT BEY: And --

11:02:02 19 THE COURT: And I don't think it is really pertinent
11:02:04 20 to what we are dealing with today.

11:02:05 21 DEFENDANT BEY: The reason I am asking that, because
11:02:09 22 dealing with finances or money, then it is an equity court.
11:02:14 23 And if it is an equity court, then I don't mind being sealed,
11:02:24 24 because I am the only equity in here.

11:02:28 25 So what I want to state is as far as my docketness

11:02:36 1 goes, is stating who and what I am, and I do want the record
11:02:41 2 to reflect that I am not a U.S. citizen, and that I am going
11:02:46 3 to challenge jurisdiction, and jurisdiction can be challenged
11:02:50 4 at any time. And so I am challenging jurisdiction right now
11:02:54 5 and I think my documents reflect who and what I am.

11:02:58 6 And so upon that note, I am not consenting to
11:03:01 7 anything. I thought that was very important for you all to --

11:03:11 8 THE COURT: Okay. I hear that.

11:03:12 9 DEFENDANT BEY: Uh-huh.

11:03:13 10 THE COURT: So I think the best way to proceed with
11:03:16 11 respect to the exhibits that I was asking about is I will
11:03:19 12 grant the government's motion to file that under seal, just so
11:03:22 13 that we have a record of what you had proposed to the
11:03:26 14 government as the exhibits that you wanted to introduce at
11:03:33 15 trial. So go ahead and file that under seal, because -- you
11:03:37 16 didn't file it yet, right?

11:03:39 17 MS. MALIZIA: Correct.

11:03:39 18 THE COURT: So go ahead and file that under seal.

11:03:42 19 And consistent with the strong presumption of access
11:03:46 20 to trial exhibits, when we get to the Pre-Trial Conference,
11:03:51 21 and we examine the admissibility of exhibits, then -- and of
11:03:58 22 course, at trial, then the presumption will be that they will
11:04:01 23 be public.

11:04:02 24 But just for now, so that we can move forward, you
11:04:05 25 can go ahead and file that under seal.

11:04:07 1 DEFENDANT BEY: Can I ask you one more thing?

11:04:08 2 THE COURT: Sure.

11:04:09 3 DEFENDANT BEY: You said that equity is not really
11:04:13 4 reputable to Title 28, but it is, because if it is equity,
11:04:18 5 then there are no charges.

11:04:19 6 And so what I am saying is if there is equity, then
11:04:25 7 they don't have anything here, because I am the only equity in
11:04:29 8 here, and so what I am saying to you is -- okay.

11:04:38 9 I am going to read this statement to you because I
11:04:41 10 think this is very important.

11:04:45 11 THE COURT: I do have, Mr. Bey, the filing that you
11:04:49 12 had entitled. At least on the first page, lawful notice.

11:04:53 13 DEFENDANT BEY: Yes, sir.

11:04:54 14 THE COURT: That is docket entry 150, so that is on
11:04:56 15 the docket.

11:04:57 16 DEFENDANT BEY: Okay.

11:04:58 17 THE COURT: And --

11:05:00 18 DEFENDANT BEY: It is my W8, my foreign status, is
11:05:06 19 that filed on the case? Because I don't want that sealed. I
11:05:09 20 want there to be public record that --

11:05:12 21 THE COURT: That is not under seal.

11:05:13 22 DEFENDANT BEY: That is not going to be sealed, okay.
11:05:15 23 I want them to know that I am foreign to the United
11:05:19 24 States, and so on that note, you know, what I wanted to tell
11:05:24 25 you, right now, I am making a special private visitation with

11:05:36 1 my private tribunal to judge the matter today.

11:05:43 2 So if we are going to continue, then we continue
11:05:48 3 without my consent. So you make the call.

11:05:55 4 THE COURT: So in light of the fact that this
11:05:58 5 District Court is constituted by Title 28 and the charge
11:06:04 6 against you is a criminal charge, it is not a matter of
11:06:09 7 equity, neither the government nor the Court needs your
11:06:12 8 consent to move forward, because you are required by law to
11:06:17 9 face the charges. So we will move forward.

11:06:21 10 The notice that you filed, one part of it deeper into
11:06:25 11 the filing, asks for an identity hearing.

11:06:28 12 DEFENDANT BEY: Yes, sir.

11:06:29 13 THE COURT: And so the government is going to have to
11:06:31 14 prove that you are the person that has been charged, and that
11:06:37 15 you are the person who submitted the returns that they claim
11:06:41 16 are unlawful.

11:06:43 17 So identity will be an issue, but at trial. So there
11:06:47 18 is no separate identity hearing.

11:06:49 19 DEFENDANT BEY: All right.

11:06:50 20 THE COURT: The rest of the documents, I must say,
11:06:54 21 unfortunately, they don't have any particular legal effect.
11:06:58 22 There is nothing that would require either dismissal of the
11:07:02 23 charge in those documents nor really calling for a response
11:07:07 24 from the government.

11:07:10 25 So that is all I can really say, Mr. Bey, as to that.

11:07:14 1 DEFENDANT BEY: Okay.

11:07:14 2 THE COURT: All right.

11:07:15 3 Next is --

11:07:16 4 MS. MALIZIA: Your Honor?

11:07:17 5 THE COURT: Yes.

11:07:17 6 MS. MALIZIA: Just to clarify for the record, the
11:07:19 7 government believes that what Mr. Bey filed under seal as the
11:07:23 8 lawful notice, is identical to what he left at the U.S.
11:07:28 9 Attorney's Office as his proposed exhibits.

11:07:30 10 THE COURT: I didn't think the notice was under seal.

11:07:34 11 MS. MALIZIA: It was not filed under seal but I think
11:07:37 12 the Court sealed it, or at least it is not accessible in the
11:07:43 13 public docket because it contains personal identifying
11:07:48 14 information.

11:07:49 15 THE COURT: And this is actually the subject of the
11:07:51 16 Judge's meeting in one hour.

11:07:53 17 I know you want that to be public record, I thought
11:07:56 18 it was public record --

11:07:58 19 DEFENDANT BEY: Yes.

11:07:58 20 THE COURT: (Continuing) -- naturally, I can see
11:08:00 21 everything, so no warning popped up for me.

11:08:03 22 So I will order the clerk to unseal that docket
11:08:08 23 number.

11:08:08 24 DEFENDANT BEY: Thank you.

11:08:09 25 THE COURTROOM DEPUTY: Which docket number is that,

11:08:11 1 Judge?

11:08:12 2 THE COURT: 150.

11:08:13 3 THE COURTROOM DEPUTY: Thank you.

11:08:14 4 MS. MALIZIA: Your Honor, our motion may be moot then

11:08:16 5 since I believe that those two sets of documents are

11:08:19 6 identical, Exhibit A and the lawful notice.

11:08:23 7 THE COURT: Can you double check?

11:08:24 8 MS. MALIZIA: Yes.

11:08:25 9 DEFENDANT BEY: Exhibit A is just my DBA, that is all

11:08:28 10 it is, by DBA.

11:08:29 11 THE COURT: Your DBA?

11:08:31 12 DEFENDANT BEY: Yes, doing business as, that is what

11:08:33 13 Exhibit A is.

11:08:34 14 THE COURT: But you --

11:08:36 15 DEFENDANT BEY: But the lawful notice is stating --

11:08:38 16 MR. HOTALING: It is the lawful notice and the

11:08:40 17 documents that follow behind the document that said, lawful

11:08:44 18 notice.

11:08:44 19 THE COURT: It might be that you are talking about

11:08:46 20 two different things.

11:08:47 21 So definitely that docket entry will be unsealed, so

11:08:52 22 that will be on the public record.

11:08:54 23 DEFENDANT BEY: Okay, okay.

11:08:55 24 THE COURT: What I will ask the government to do is

11:08:57 25 to double check as to whether what Mr. Bey had given to you

11:09:03 1 that you were attempting to file under seal is the same.

11:09:07 2 Since you think it is, right now I will just
11:09:09 3 terminate that motion as withdrawn.

11:09:12 4 If it is not, if you double check and you find that
11:09:14 5 there are some additional documents that don't match up with
11:09:19 6 what Mr. Bey himself has filed, then go ahead and file another
11:09:23 7 motion.

11:09:23 8 All right?

11:09:24 9 MS. MALIZIA: Okay.

11:09:25 10 And thank you, Your Honor.

11:09:26 11 DEFENDANT BEY: It is the same page.

11:09:27 12 THE COURT: I'm sorry?

11:09:28 13 DEFENDANT BEY: I gave everything to everybody.

11:09:31 14 Everything is the same. What you got, she got.

11:09:40 15 THE COURT: They'll just double check. All right?

11:09:41 16 The next thing on the agenda is I just wanted to get
11:09:46 17 a sense of what, if anything, has Mr. Bey done in taking
11:09:57 18 advantage of the availability of standby counsel?

11:10:02 19 So for this part of the hearing, and it may be
11:10:05 20 appropriate I think to do this ex parte and under seal, so the
11:10:12 21 government does not hear what is going on between Mr. Bey and
11:10:16 22 counsel, but I will say that I will encourage Mr. Bey to
11:10:21 23 utilize the services of standby counsel to, at the very least,
11:10:26 24 put exhibits into particular formats and so on.

11:10:35 25 But again, because this is a matter of what is

11:10:37 1 happening between the defendant and Mr. Fuentes, do you have
11:10:40 2 any objection to going ex parte and under seal?

11:10:43 3 MS. MALIZIA: No, Judge.

11:10:44 4 MR. HOTALING: No objection.

11:10:45 5 And we can step outside.

11:10:46 6 THE COURT: If you can do that. Thank you.

11:11:07 7 And actually, everyone else should step out as
11:11:10 8 well.

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11:11:10 10 (WHEREUPON THE PROCEEDINGS WERE CONTINUED

11:11:10 11 EX PARTE AND UNDER SEAL.)

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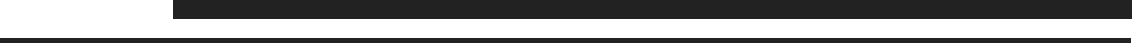



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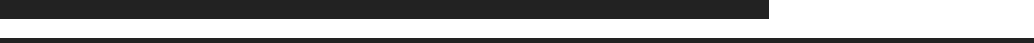

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11:12:21	11	[REDACTED]
11:12:24	12	[REDACTED]
11:12:32	13	[REDACTED]
11:12:39	14	[REDACTED]
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11:15:15	12	[REDACTED]
11:15:16	13	[REDACTED]
11:15:20	14	[REDACTED]
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11:15:30	16	[REDACTED]
11:15:33	17	[REDACTED]
11:15:37	18	[REDACTED]
11:15:38	19	[REDACTED]
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(WHEREUPON THE PROCEEDINGS WERE CONTINUED
IN OPEN COURT.)

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THE COURT: Okay. We are now back on the public

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record.

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I do believe there is an appropriate line of
communication between Mr. Bey and Mr. Fuentes, and so that is
good news.

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The other item I will put on the public record is
that to the extent that Mr. Fuentes assists Mr. Bey at his
request to file documents or exhibits on the record, the Court
will not consider that as standby counsel vouching for either
the legal or factual accuracy of any document or filing, but
that he is just helping Mr. Bey effectuate those filings that
Mr. Bey is filing for himself.

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So you said that you wanted to challenge
jurisdiction, so I need you to put that in writing.

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DEFENDANT BEY: Okay.

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THE COURT: When do you think you can file that kind

11:18:57 1 of motion?

11:18:57 2 DEFENDANT BEY: Today is Thursday? I can have it
11:19:00 3 Monday on the docket.

11:19:02 4 THE COURT: That is --

11:19:03 5 THE COURTROOM DEPUTY: March 26th, Judge.

11:19:04 6 THE COURT: Um, okay.

11:19:07 7 March 26th.

11:19:10 8 And there usually is a 15-page limit on motions.

11:19:14 9 DEFENDANT BEY: Okay.

11:19:14 10 THE COURT: Do you think you can fit that?

11:19:19 11 DEFENDANT BEY: Yes, sir.

11:19:20 12 THE COURT: All right.

11:19:21 13 Then I will ask the government to reply by -- let's
11:19:24 14 see, our pre-trial is April 9, and so why don't you try to
11:19:28 15 respond by April 4, which is the Wednesday after, and then I
11:19:35 16 will look at those two filings in advance of the April 9
11:19:39 17 Pre-Trial Conference. And same 15-page limit on the
11:19:46 18 government.

11:19:48 19 Then our next date is the April 9th Pre-Trial
11:19:54 20 Conference.

11:19:54 21 DEFENDANT BEY: Okay.

11:19:56 22 THE COURT: April 9th, right? Yes.

11:19:59 23 We are all set for that, Mr. Bey?

11:20:01 24 DEFENDANT BEY: Yes, Judge.

11:20:05 25 Did you give a time on that, Judge?

11:20:08 1 MR. HOTALING: It is 1:30.

11:20:10 2 THE COURT: 1:30.

11:20:12 3 DEFENDANT BEY: Okay.

11:20:13 4 THE COURT: Mr. Fuentes, anything you want to put on
11:20:15 5 the record?

11:20:15 6 MR. FUENTES: No, just that I don't know that it is
11:20:18 7 important for the Court to acknowledge it, but the other thing
11:20:21 8 we talked about in our conference was that Jenner & Block
11:20:24 9 filing documents for Mr. El Bey as standby counsel creates no
11:20:29 10 duties from Jenner & Block to Mr. El Bey. Probably most
11:20:33 11 important for you, Mr. El Bey, to acknowledge that on the
11:20:35 12 record if you agree with that.

11:20:37 13 DEFENDANT BEY: Oh, yes. Yes.

11:20:39 14 Yes, I do.

11:20:39 15 MR. FUENTES: Thank you.

11:20:40 16 THE COURT: All right.

11:20:40 17 Anything else the government wants to put on the
11:20:42 18 record?

11:20:42 19 MS. MALIZIA: No, Your Honor.

11:20:43 20 THE COURT: But there was a -- I think you had one
11:20:46 21 stipulation in the joint statement, and there was a very minor
11:20:51 22 typo.

11:20:51 23 MS. MALIZIA: I apologize.

11:20:53 24 THE COURT: Let's see.

11:20:55 25 Page 4, Mr. Bey, do you remember that you stipulated

11:21:05 1 to the name changes, does that sound familiar?

11:21:08 2 DEFENDANT BEY: Yes, sir.

11:21:08 3 THE COURT: So the last sentence, I think it says,
11:21:11 4 "At the time of the charged offenses, the defendant was
11:21:15 5 received income through the U.S. Postal Service," and so I --
11:21:21 6 did you want to say was receiving income?

11:21:23 7 MS. MALIZIA: Yes, Your Honor, that was the intended
11:21:25 8 language.

11:21:26 9 DEFENDANT BEY: Well, I would like to state this
11:21:28 10 though.

11:21:28 11 Friday, we said that didn't matter, they weren't
11:21:31 12 going to put it on there.

11:21:33 13 But if they are going to put it on there, that is not
11:21:35 14 what they told me Friday.

11:21:37 15 MS. MALIZIA: Your Honor, we had discussed how it
11:21:39 16 came into trial last time, that the defendant was receiving
11:21:42 17 disability benefits from the Postal Service which standby
11:21:48 18 counsel raised the issue that that could be perceived as
11:21:48 19 prejudicial to the jury.

11:21:49 20 So to avoid introducing that in the government's
11:21:54 21 affirmative case, this was the compromise that we brokered.

11:21:59 22 THE COURT: So, Mr. Bey, are you comfortable with
11:22:03 23 stipulating to the sentence, "At the time of the charged
11:22:07 24 offenses, the defendant was receiving income through the U.S.
11:22:11 25 Postal Service"?

11:22:12 1 DEFENDANT BEY: No, I am not, because it is not
11:22:14 2 true.

11:22:15 3 THE COURT: Okay.

11:22:18 4 DEFENDANT BEY: Oh, oh, I'm sorry.

11:22:20 5 Yes, that is true. That is okay. That is true.

11:22:23 6 Because they had it for 209. Yes, that is fine.

11:22:28 7 THE COURT: I think what might be important, so that
11:22:31 8 this doesn't -- so that we are all on the same page, and
11:22:36 9 literally on the same page, I am going to ask the government
11:22:39 10 to prepare an actual stipulation for filing, and then present
11:22:44 11 it to Mr. Bey.

11:22:46 12 DEFENDANT BEY: Okay.

11:22:47 13 THE COURT: Then you can double check the language
11:22:50 14 and make sure it is the same.

11:22:51 15 DEFENDANT BEY: Okay.

11:22:51 16 THE COURT: And then if you agree with it, then sign
11:22:54 17 it, and we will have an actual stipulation before trial, and
11:22:58 18 you can file it on the docket sometime before the Pre-Trial
11:23:02 19 Conference or you can just hand it up at the Pre-Trial
11:23:04 20 Conference. But let's literally get on the same page.

11:23:04 21 DEFENDANT BEY: Okay.

11:23:09 22 THE COURT: See you on April 9.

11:23:12 23 DEFENDANT BEY: Thank you, Judge.

11:23:13 24 MR. FUENTES: Thank you, Judge.

11:23:14 25 MR. HOTALING: And we excluded time through the trial

11:23:16 1 date?

11:23:17 2 THE COURT: Yes, we already have.

11:23:18 3 MR. HOTALING: Just making sure.

11:23:19 4 Thank you.

11:23:19 5 MS. MALIZIA: Thank you.

11:23:20 6 And Your Honor, just to clarify for the record, was
11:23:22 7 it -- we had two proposed stipulations in the joint pretrial
11:23:26 8 order, is it Your Honor's desire that the defendant stipulate
11:23:29 9 in writing to both?

11:23:33 10 THE COURT: Yes, if he still agrees.

11:23:35 11 I thought it was just one big paragraph.

11:23:37 12 MR. HOTALING: Right above it.

11:23:38 13 MS. MALIZIA: There is a stipulation to the
11:23:40 14 admissibility of the government's exhibits as well.

11:23:41 15 THE COURT: Oh, I see.

11:23:46 16 Yes, so if Mr. Bey is still comfortable with signing
11:23:50 17 that, you can present it to him.

11:23:52 18 DEFENDANT BEY: Okay.

11:23:53 19 MS. MALIZIA: Okay.

11:23:54 20 Thank you, Your Honor.

11:23:54 21 MR. HOTALING: Thank you.

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23 (Proceedings concluded.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

<u>/s/Krista Burgeson, CSR, RMR, CRR</u>	<u>January 21, 2019</u>
Federal Official Court Reporter	Date